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SUBJECT: TAIWAN: PART THREE OF 2009 NATIONAL TRADE ESTIMATE REPORT

REF: STATE 88685

SERVICES BARRIERS

Accounting/Consulting Services

¶1. Foreign certified public accountants may serve as private agents contracted by Taiwan authorities to provide notary services or conduct audits only if they pass Taiwan's public certified accountant qualification tests, although foreign CPAs are exempt from some portions of the tests. Foreign CPAs may provide management consultant services in Taiwan.

Banking

¶2. Foreign banks may set up representative offices, branches, and subsidiaries. To establish a representative office, banks must rank among the world's top 1,000 banks in terms of capital or assets, or have over $300 million in transactions with Taiwan banks and/or enterprises over the past three years. To establish a bank branch, a bank must rank among the world's top 500 banks in terms of capital or assets, or have over $1 billion in transactions with Taiwan banks and/or enterprises over the past three years. The above requirements are waived if the government of the foreign bank's home country has signed a relevant agreement with Taiwan. Taiwan sets a minimum working capital requirement of NT$150 million ($4.6 million) for the first branch and another NT$120 million ($3.7 million) for each additional branch. In addition, a foreign bank's branch in Taiwan is required to maintain net worth above two-thirds of its working capital.

¶3. Foreign banking institutions may acquire up to 100% of equity in Taiwan banks. Foreign-invested banks in Taiwan are accorded with national treatment, and these banks are subject to a 25% ownership limit for each investor, a requirement exactly the same as for Taiwan banks.

Brokerage/Asset Management

¶4. Foreign securities firms may set up representative offices, branches, and subsidiaries, and Taiwan securities firms are not subject to any foreign ownership limit. They are subject to minimum capital requirements, including NT$400 million ($12.3 million) for underwriting, NT$400 million ($12.3 million) for trading, and NT$200 million ($6.15 million) for brokerage. The minimum capital requirement increases by NT$30 million ($923,080) for establishing a domestic or offshore branch.

¶5. Asset management requires a securities investment trust enterprise (SITE) license and/or securities investment consultant enterprise (SICE) license. SITEs are allowed to organize, sell, and manage mutual funds in Taiwan, and SICEs are permitted to sell and manage overseas mutual funds. Both SITEs and SICEs are not subject to any foreign ownership limit. They are subject to minimum capital

requirements, including NT$300 million ($9.23 million) for SITEs and NT$20 million ($615,380) for SICEs, with an ownership limit of 25% for each investor (shareholder). A minimum 20% of the SITE must be held one or more of the following:

--fund management firms having over three years of experience and currently managing assets above NT$65 billion ($2 billion);

--banks ranking among the world's top 1,000 banks and having three years asset management experience;

--insurance companies with over three years asset management experience, holding assets above NT$8 billion ($246 million);

--securities firms having a minimum paid-in capital of NT$8 billion ($246 million) and engaging in underwriting, trading and brokerage for a minimum of three years; and/or

--financial holding companies whose subsidiaries meet any of the four qualifications.

Educational Services

¶6. Taiwan's Ministry of Education (MOE) does not recognize credit or degrees earned in Taiwan offered by foreign-owned or operated facilities which are not physically established in Taiwan and have not been approved by the MOE. Under Taiwan law, however, foreign universities can only offer degree programs by setting up a full campus in Taiwan, and requirements to do so are burdensome. New schools must have at least four hectares of land, initial floor space of 6,000 square meters, a substantial endowment deposited in a local bank account, and 12 academic departments across three or more fields of research. Foreign colleges and universities may, however, set up representative offices to provide Taiwan students information about the foreign schools.

¶7. Taiwan recognizes joint degrees earned by students who split attendance between the school in Taiwan and the foreign campus. However, the MOE does not recognize such degrees unless at least half of the credits are earned in-person on the foreign campus, effectively shutting out foreign "capstone" and weekend or executive MBA programs.

¶8. Joint degree programs between a foreign school and a Taiwan school via distance education are also possible. However, credits earned through distance learning cannot exceed one-third of the total credits required for a degree in Taiwan, which limits the cost savings and convenience of distance education.

¶9. Taiwan allows establishment of private schools at the senior high level or below only for children of foreign expatriates. Foreign investors are allowed to establish and operate language training institutes, and are also allowed to employ local and foreign teachers. Foreign teachers may not teach in local primary and high schools unless they pass Taiwan teachers' qualification tests. Foreign teachers may teach in local tertiary schools when under an employment contract from the school.

Financial Services

¶10. Foreign portfolio investors are required to register rather than seek advance approval, though since December 2003, the registration can be done through the Internet. Since 2003, Taiwan has allowed foreign portfolio investors to trade in the futures and money markets as a part of financial management before actual portfolio investment, although domestic currency denominated futures, money market funds, and bank deposits are limited to 30 percent of total inward remittances. All offshore foreign portfolio investors may trade in Taiwan's stock market regardless of their size, except for investors from the People's Republic of China. Since October 2003, hedge funds have been permitted to trade in Taiwan's stock market, but are subject to Taiwan authorities' close surveillance. Foreign individual investors, however, are still subject to an investment limit. Onshore foreign individuals and institutional investors are also subject to annual inward/outward limits.

¶11. In addition to liberalization, Taiwan set up an international bond market in 2006. Since then, two foreign banks have issued foreign currency-denominated bonds. Taiwan has also announced plans to establish a securities market international board where both listing and trading will be denominated in U.S. dollars. The plan, which is designed to attract foreign companies to list as well as foreign portfolio investors to trade, has thus far not been implemented due to restrictions on cross-Strait mutual investment.

Healthcare Services

¶12. Taiwan law permits foreign-invested health care services, such as hospitals and nursing homes, but all types of health care services in Taiwan must be provided by non-profit organizations. The number of foreign persons permitted to serve on the board of directors of a healthcare service provider is limited to no more than one-third of the total members. In addition, one-third of board members must have professional medical qualifications. Only those who have Taiwan-issued medical licenses can practice medical service in Taiwan. Foreign medical doctors may take English-language licensing exams which allow them to practice medicine outside Taiwan's major cities.

¶13. Taiwan does not license or recognize chiropractors as legitimate medical practitioners, and allows chiropractors to practice in Taiwan only if they do not advertise their services and make no claims about the results or efficacy of treatments.

Insurance

¶14. Taiwan allows foreign insurance firms to set up representative offices, branches, and subsidiaries. Taiwan also allows foreign insurance firms to merge with or acquire local companies. The minimum capital requirement for an insurance company is NT$ 2 billion ($615 million), and there is no foreign ownership limit. The minimum working capital for a Taiwan branch of a foreign insurance company is NT$ 50 million ($1.5 million), and the only entry requirement is a record of sound performance in its home market in the past three years, and no major violations in the past five years. Foreign insurance firms in Taiwan may engage in life, non-life, and re-insurance businesses.

Pay Television Services

¶15. The Cable Radio and Television Law restricts foreign investment in pay television services to a total equity share of 20 percent for direct investment, or 60 percent for direct plus indirect investment. Further limits each cable service provider's potential market share to no more than one-third of the total cable market in Taiwan. Despite these restrictions, the largest multi-system cable TV operators in Taiwan are foreign-owned. However, recent, seemingly arbitrary, NCC decisions requesting financial restructuring of local affiliates of foreign-owned cable operators may undermine the ability of foreign cable companies to do business in Taiwan. In addition, continuing caps on monthly cable TV fees are overly restrictive, hamper the Taiwan public's access to more expensive, higher-quality programming, and may reduce the cable industry's incentives to invest in expensive digitalization of Taiwan's largely-analog cable system.

Telecommunications Services

¶16. Since 2005, the Directorate General of Telecommunications (DGT) has used local population to calculate the capital requirements and license costs for facilities-based operators providing local, long distance, and international services. For instance, NT$1.2 billion ($36.4 million) may be required for a local call license in Taipei City and NT$2 billion ($60.0 million) for long distance and international service licenses, while licenses in less-populated areas will be less.

¶17. To encourage further investments and more competition, in January 2008, the National Communications Commission (NCC)--established in 2006 to regulate the telecoms and

broadcasting sectors--reduced capital requirements for facilities-based operators from NT$16 billion ($485 million) to NT$6.4 billion ($194 million) for an integrated network operator; from NT$1.2 billion ($36.4 million) to NT$500 million ($15.2 million) for local call service providers in Taipei; and from NT$2 billion ($60.0 million) to NT$800 million ($24.2 million) for both long distance and international call operators. In 2008, the NCC also began accepting and reviewing license applications at any time, rather than on a quarterly basis.

¶18. Existing fixed-line operators still face serious difficulties in negotiating reasonable interconnection arrangements at technically feasible points in the network of the dominant carrier, Chunghwa Telecom (CHT). Despite CHT's announcement in May 2004 that it would share the local loop with the three private providers, fixed-line operators complain that local loop fees collected by CHT are still too high. In addition to NT$35 billion ($1.1 billion) of new broadband-network construction ongoing since 2003, the NCC in July 2007 issued six regional licenses to Worldwide Interoperability for Microwave Access (WiMax) operators. Taiwan expects WiMax operators to begin services in 2009, which will help break CHT's monopoly on the telecommunications network.

¶19. CHT still retains close ties to the authorities, however. Until 2005, CHT and Taiwan's telecommunications regulator (DGT) were both under the direct control of the Ministry of Transportation and Communication (MOTC), creating an obvious conflict of interest. Privatizing CHT and establishing an independent regulator were two of Taiwan's WTO accession commitments. In August 2005, MOTC partially privatized CHT and, after sales of additional shares in September 2006, state ownership has been reduced to 34 percent, and more than 40 percent of the company is held by foreign investors.

ELECTRONIC COMMERCE

¶20. Over 90 percent of Taiwan's companies have corporate networks and a network infrastructure, and 4.7 million households link their computer to Internet by Asymmetric Digital Subscriber Line (ADSL), cable modem, or optical fiber (FTTx). Taiwan law has recognized the legal validity of electronic contracts, records, and signatures since 2001, the same year Taiwan's legislature passed a data privacy protection law. Taiwan has not joined with the United States in APEC to advocate for a permanent moratorium on taxation of Internet transactions, and the Ministry of Finance imposes business taxes on Internet vendors who sell products for profit and have monthly sales over NT$60,000 ($1,820). In 2007, the volume of Internet sales, including "Business to Consumer" (B2C) and "Consumer to Consumer" (C2C) totaled NT$214 billion ($6.5 billion), according to the Taiwan Institute for Information Industry (III). Sales are expected to increase 32 percent to NT$282 billion ($8.7 billion) in 2008.

INVESTMENT BARRIERS

¶21. Taiwan prohibits or restricts foreign investment in a handful of industries, including agricultural production, public utilities, and postal services. In May 2008, Taiwan removed single-axle truck leasing from the list of sectors in which foreign investment is restricted, but added pesticides. Taiwan has allowed private production of cigarettes since 2004 without any foreign ownership limit, although prior official approval is required. Taiwan-flagged merchant ships are subject to a foreign ownership limit of 50 percent.

¶22. The foreign ownership limit on wireless and wire line telecommunications firms is 60 percent, including a direct foreign investment limit of 49 percent. Separate rules exist for Chunghwa Telecom, the legacy carrier still partially owned by the Ministry of Transport and Communications, which controls 97 percent of the fixed line telecommunications market. For Chunghwa Telecom, the cap on direct and indirect investment was raised to 55 percent in December 2007, including a direct foreign investment limit of 49 percent. In January 2003, Taiwan raised the total direct and indirect foreign ownership limit on cable television broadcasting services to 60 percent, including a 20 percent limit on foreign direct investment.

¶23. A 49 percent foreign ownership limit remains on satellite

television broadcasting services, power transmission and distribution, piped distribution of natural gas, high speed railways, airport ground handling firms, air cargo terminals, air catering companies, and air cargo forwarders. In July 2007, the foreign ownership limit on airline companies was raised from 33 percent to 49.99 percent, with each individual foreign investor subject to an ownership limit of 25 percent.

Portfolio Investment

¶24. Foreign portfolio investors are required to register rather than seek advance approval, though since December 2003, the registration can be done through the Internet. Up to 30 percent of funds remitted for purposes of portfolio investment may be held in money market or other similar instruments. Funds for futures trading, however, must be remitted to Taiwan specifically for that purpose and are segregated from funds remitted for equity investment. In June 2007, Taiwan set a cap of NT$300 million on the balance of a foreign investor's NT$ omnibus account resulting from profits gained from futures trading in Taiwan. If the balance exceeds the limit, the foreign investor is required to convert the NT$ into U.S. dollars, with the new balance below $10 million. Except for investors from the People's Republic of China, offshore foreign portfolio investors may trade in Taiwan's stock market regardless of their size.

¶25. In mid-August 2008, Taiwan announced that it will allow China-based qualified domestic institutional investors (QDII) to engage in portfolio investment in Taiwan after relevant regulations are promulgated, likely before the end of 2008. Such investment, however, will be subject to a PRC-set cap of 3% net worth until Taiwan and the PRC sign a cross-Strait memorandum of understanding on this issue.

¶26. Since October 2003, foreign hedge funds have been permitted to trade in Taiwan's stock market, but are subject to Taiwan authorities' close surveillance. Foreign individual investors, however, are still subject to an investment limit. Onshore foreign individuals and institutional investors are also subject to annual inward/outward limits of $5 million and $50 million, respectively.